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Board of Vocational Nursing
and Psychiatric Technicians

8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN 2007 2614

12 **MOISES ABAQUITA ABAYATA**
13 **14608 Dartmoor Avenue**
Norwalk, CA 90650
14 **Vocational Nurse License No. VN 154846**

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
19 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
20 Technicians, Department of Consumer Affairs.

21 2. On or about December 30, 1991, the Board of Vocational Nursing and Psychiatric
22 Technicians issued Vocational Nurse License Number VN 154846 to Moises Abaquita Abayata
23 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to
24 the charges brought herein and will expire on October 31, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric
27 Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.
28 All section references are to the Business and Professions Code unless otherwise indicated.

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Patient 1

9. On or about October 22, 2007, Patient D.K., a 72 year old female, was admitted as a residential patient to Windsor Gardens with diagnoses of bipolar disorder, osteoarthritis, difficulty in walking, generalized muscle weakness, schizoaffective disorder, dementia, COPD, and hypertension.

10. Respondent was employed by Windsor Gardens on April 6, 2002 until he was terminated on or about May 2, 2008.

11. On or about April 20, 2008, patient DK fell while walking from the back patio room to her room. A Certified Nurse's Assistant (CNA) was walking with the patient at the time that she fell. The CNA immediately called a nurse to assess the patient. In response to the call, Respondent assessed the patient which included full range of motion assessment of all extremities without apparent difficulty and/or pain to the patient. Respondent assisted the patient to her feet and determined that the patient's condition was unchanged because she could walk independently back to her room. Respondent failed to notify a physician or family of the patient's fall. Respondent also failed to document the fall or follow facility policy and procedure on resident change of condition. Respondent further failed to complete an incident report until April 30, 2008.

12. On or about April 21, 2008, another CNA noted that although patient D.K. could walk, she was slower than usual and unsteady. The CNA notified a licensed nurse of the change of status. The charge nurse notified a physician of the patient's change of condition. Patient D.K. was sent to an acute care hospital that same day for evaluation and treatment and was diagnosed with a fracture of the left femur.

SECOND CAUSE FOR DISCIPLINE

(Incompetence)

13. Respondent is subject to disciplinary action under Code section 2878, subdivision (a), on the grounds of unprofessional conduct, as defined in section 2878, subdivision (a)(1), of the Code, in that on April 20, 2008, while practicing as a licensed vocational nurse, Respondent was incompetent as set forth above in paragraphs 9-12.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Failed to Adhere to Standards of Practice)

3 14. Respondent is subject to disciplinary action under Code section 2878, subdivision (a),
4 and California Code of Regulations, title 16, section 2518.6, subdivision (c), on the grounds of
5 unprofessional conduct, in that Respondent failed to comply with California Code of Regulations,
6 title 16, section 2518.6, subdivision (b)(1), on April 20, 2008, because he failed to adhere to
7 ethical or behavioral standards as set forth above in paragraph 9-12.

8 **PRAYER**


9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
11 issue a decision:

12 1. Revoking or suspending Vocational Nurse License Number VN 154846, issued to
13 Moises Abaquita Abayata;

14 2. Ordering Moises Abaquita Abayata to pay the Board of Vocational Nursing and
15 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Business and Professions Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: May 24, 2011.


TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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